



Alan J. Statman (0012045)
Gregory J. Berberich (0043651)
Lawrence A. Flemer (0018673)
Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

EASTSIDE LINCOLN MERCURY, INC. : CASE NO. 01CV00567
ET AL., :

Plaintiffs, : Judge Susan J. Dlott

v. :

FORD MOTOR COMPANY, ET AL., :

Defendants. :

STATE OF KENTUCKY)
) SS
COUNTY OF BOONE)

AFFIDAVIT OF GENE MULLINS

Gene Mullins, after having been first duly cautioned and sworn, hereby states and deposes as follows, based upon his personal knowledge:

1. Between April 1, 1996 and April 15, 2002 I was employed as the General Sales Manager of Northgate Lincoln Mercury located at 8810 Colerain Avenue, Hamilton County, Ohio. At all relevant times, Northgate Lincoln Mercury was operated as part of the Kenwood Dealer Group, Inc. ("KDG") which owns and operates three Lincoln Mercury dealerships in the greater Cincinnati area, including Northgate Lincoln Mercury, Fairfield Lincoln Mercury and Lincoln Mercury of Kings Auto Mall. Robert Reichert, also a defendant in this action, is the president and majority owner of KDG.

2. As General Sales Manager, my duties included ongoing contacts with Ford's Lincoln Mercury Regional Sales Office. During my tenure, Jerry Carter served as Lincoln Mercury's Regional Sales Manager. The Regional Office staff also included a

General Zone Manager (Matt Wilson) and a Zone Manager (Pat Letart). During my tenure, I had regular dealings with Mr. Letart on various issues, as set forth more fully herein and Mr. Carter as well.

3. As General Sales Manager, I had frequent meetings and communications with Mr. Letart regarding new vehicle allocations from Ford, and the various sales incentive programs and advertising programs offered by Ford to support new vehicle sales. Mr. Letart told me on a number of occasions that he and Ford were incensed that one of our competitors in the greater Cincinnati area market, Eastside Lincoln Mercury ("ELM" or "Eastside"), was undercutting the prices on new vehicles to such a great extent, thereby challenging KDG's pricing practices and profitability. In response to ELM's low price practices, Ford, through Mr. Letart and others at the Regional Office, gave preferential treatment to Northgate Lincoln Mercury and the other Lincoln Mercury dealers in the Kenwood Dealer Group through various means.

4. On one occasion, after Eastside Lincoln Mercury began running newspaper ads to sell Lincolns at \$10,000 off MSRP, Mr. Letart arranged for Northgate Lincoln Mercury to receive an extra allocation of Lincolns, above and beyond the number normally allocated. Mr. Letart stated that he was doing so to keep these vehicles away from ELM and give the KDG an advantage. Mr. Letart stated he was "incensed" by ELM's practice of "giving away cars" and that he had previously warned Eastside in this regard.

5. On another occasion, ELM began running ads for Grand Marquis at \$5,000 off MSRP. Mr. Letart stated that the General Manager of Lincoln Mercury of Kings Auto Mall had complained to Ford's Regional Office in this regard and, as a result, Mr. Letart was told that the KDG dealerships would be allocated the lion's share of Grand Marquis, similarly leaving few vehicles available for ELM. Mr. Letart stated that this would "help solve the problem" and reiterated that Eastside was being warned in this regard.

6. I am also aware that contests and sales incentive programs offered by Ford to KDG's Lincoln Mercury dealerships. On one occasion, Mr. Letart told us that Northgate Lincoln Mercury had won a sales contest "just for us", meaning the KDG dealerships. Mr. Carter informed my immediate superior Mr. Jerry Mullins (General Manager of Northgate Lincoln Mercury) and me that he had "rented" the Gentry Shop store in Fairfield and that all of our sales staff was allowed to go there and pick out two or three suits or sport coats at Ford's expense.

7. During my tenure with Northgate Lincoln Mercury, I learned that one of the goals of Ford and Robert Reichert was to consolidate the greater Cincinnati dealer market by reducing the number of Lincoln Mercury dealer principals in the area. I was told that one

of my goals was to help put Jim Dixon Lincoln Mercury of Fairfield out of business, so that Ford could then sell/turn over the dealership to Mr. Reichert. It was also the goal of Ford and Mr. Reichert to put Eastside Lincoln Mercury out of business so that it could also be sold to Mr. Reichert. To accomplish these goals, I was told by Mr. Jerry Mullins to train the sales people in how to deal with Eastside's low pricing ads, and was told to tell our customers that our KDG dealerships were going to be the only Lincoln Mercury dealerships in the area before long. We also told our customers that the KDG dealerships were given preferential treatment by Ford, and received vehicles from Ford to which other area dealers, such as Eastside, could not have access.

8. From time to time, I communicated with the General Manager of Lincoln Mercury of Kings Auto Mall, Larry Feldhaus. Mr. Feldhaus is a shareholder of the Kenwood Dealer Group as well as General Manager of the Kings location. On one occasion, Mr. Feldhaus called me and insisted that I stop doing dealer trades with Eastside Lincoln Mercury to find specific vehicles our customers wanted. He told me that Eastside Lincoln Mercury was "the enemy" because its low price advertising was costing KDG profits which were affecting his interest in KDG.

9. During my tenure, the Office Manager at our dealership frequently came to me with checks issued by Ford to our dealership, and asked me how to "lay off" these funds against various new vehicles in our inventory.

10. Ford routinely gave money and other forms of sales assistance to Northgate Lincoln Mercury and the KDG dealers. Sometimes the checks were payable to the dealership, sometimes to individual sales personnel, and sometimes to managers. On one occasion, I received a call from Mr. Don Bach, then manager at Jim Dixon Lincoln Mercury, who called to compare the size of his checks with those we were receiving from Ford.

11. At year's end, Ford often made money available to dealers as "year end incentives" to support the sale of that year's model vehicle. These payments were typically referred to as "close out allowances". In addition to, and outside of the closeout allowance program, Northgate Lincoln Mercury was also given other monies by Pat Letart and Jerry Carter to help us move last year's model vehicles. These additional monies were unavailable to other dealers in our area, according to Mr. Letart.

Further affiant sayeth naught.


Gene Mullins

Sworn to and subscribed in my presence on this 20 day of May, 2003.


Notary Public

My Commission Expires April 13, 2004

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Affidavit of Gene Mullins was served via ordinary U.S. mail on this ____ day of May, 2003 to the following:

Steven D. Hengehold
Rendigs, Fry, Kiely & Dennis
One West Fourth Street, Suite 900
Cincinnati, Ohio 45202-3688

Elizabeth A. McNellie
Baker & Hostetler
Capitol Square, Suite 2100
65 East State Street
Columbus, Ohio 43215-4260

Gregory J. Berberich (0043651)
Lawrence A. Flemer (0018673)
STATMAN, HARRIS, SIEGEL & EYRICH, LLC
2900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
Tel. (513) 621-2666
Fax (513) 621-4896
Attorneys for Plaintiffs